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3
4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 JAMES GEORGE STAMOS, JR.,

No. C-14-4137 TEH (PR)

7 Plaintiff,

ORDER OF DISMISSAL

8 v.

9 O. GARCIA, et al.,

10 Defendants.
11 _____/

12
13 Plaintiff James George Stamos, Jr., an inmate at Kern
14 Valley State Prison, filed a pro se civil rights action under 42
15 U.S.C. § 1983 against staff at Salinas Valley State Prison (SVSP),
16 where Plaintiff was previously incarcerated. Plaintiff is granted
17 leave to proceed in forma pauperis in a separate order. His
18 complaint is now before the Court for initial screening pursuant to
19 28 U.S.C. § 1915A.
20

21 I

22 Federal courts must engage in a preliminary screening of
23 cases in which prisoners seek redress from a governmental entity or
24 officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
25 The court must identify cognizable claims or dismiss the complaint,
26 or any portion of the complaint, if the complaint "is frivolous,
27 malicious, or fails to state a claim upon which relief may be
28 granted," or "seeks monetary relief from a defendant who is immune

1 from such relief." Id. § 1915A(b). Pleadings filed by pro se
2 litigants, however, must be liberally construed. Hebbe v. Pliler,
3 627 F.3d 338, 342 (9th Cir. 2010); Balistreri v. Pacifica Police
4 Dep't., 901 F.2d 696, 699 (9th Cir. 1990).

5 To state a claim under 42 U.S.C. § 1983, a plaintiff must
6 allege two essential elements: (1) that a right secured by the
7 Constitution or laws of the United States was violated, and (2) that
8 the alleged violation was committed by a person acting under the
9 color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

10 II

11 A

12 In his complaint, Plaintiff alleges that, in early-2013,
13 he was charged with battery with a weapon on SVSP Officer Cermenio.
14 On March 8, 2013, Defendant Correctional Officer O. Garcia, who was
15 assigned as the Investigative Officer to collect evidence, took a
16 brief written statement from Plaintiff. However, Defendant Garcia
17 failed to ask Plaintiff for the names of any witnesses and failed to
18 provide Plaintiff with an incident report. On March 31, 2013,
19 Plaintiff had a disciplinary hearing presided over by Defendant Lt.
20 J. Ruiz, in which Plaintiff was unlawfully denied witnesses and the
21 opportunity to present evidence. Plaintiff was found guilty.
22 Defendants Correctional Counselor J. Hughes and Chief Deputy Warden
23 W. Muniz imposed an illegal SHU term for assault despite the fact
24 that charges had been reduced to "battery on a peace officer," which
25 is a Division "B" offense. Plaintiff was also assessed a 121-day
26 loss of time credits. He seeks money damages, reversal of the
27 disciplinary findings, and restoration of time credits.

B

The United States Supreme Court's decision in Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), bars claims of unconstitutional disciplinary actions resulting in the deprivation of time credits because such claims necessarily call into question the lawfulness of the plaintiff's continuing confinement insofar as they implicate the duration of the plaintiff's sentence. Sheldon v. Hundley, 83 F.3d 231, 233 (8th Cir. 1996); see Edwards v. Balisok, 520 U.S. 641, 645 (1997) (holding that Heck bars claim for using wrong procedures in disciplinary hearing that resulted in loss of time credits if "nature of the challenge to the procedures [is] such as necessarily to imply the invalidity of the" disciplinary decision). Where a claim would, if successful, "necessarily accelerate" the prisoner's release, Heck applies. Ramirez v. Galaza, 334 F.3d 850, 858-59 (9th Cir. 2003). Here, Plaintiff in essence claims that the disciplinary findings are incorrect. If successful, this claim would necessarily accelerate his release because it would invalidate the prison officials' disciplinary action, including the revocation of 121 days of his good time credits. As a result, Heck bars his claims for money damages based upon the allegedly unconstitutional disciplinary action until such time as the discipline has been overturned or otherwise invalidated. Plaintiff is not precluded from challenging the disciplinary action in federal court in a federal habeas petition. See Butterfield v. Bail, 120 F.3d 1023, 1024 (9th Cir. 1997) (time credit claim that affects duration of prisoner's custody, and a determination of which may likely result in entitlement to earlier release, must be brought

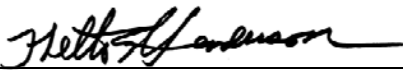
1 in habeas); Skinner v. Switzer, 131 S. Ct. 1289, 1293 (2011) (habeas
2 is "exclusive remedy" for prisoner who seeks "'immediate or speedier
3 release'" from confinement). Accordingly, the claims will be
4 dismissed without prejudice to Plaintiff challenging the
5 disciplinary action in a federal habeas petition after he has
6 exhausted the claim through the state courts, or to Plaintiff
7 refiling his claims for damages in a new civil rights action when
8 the disciplinary action has been overturned or otherwise
9 invalidated.

10 III

11 The complaint is DISMISSED without prejudice. The Clerk
12 shall enter judgment and close the file.

13 IT IS SO ORDERED.

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15 DATED 12/09/2014



THELTON E. HENDERSON
United States District Judge

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